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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,829	03/12/2004	John Sievers	199-0222US	8508
29855 7590 11/19/2008 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 SUITE 600 HOUSTON, TX 77070				
			EXAMINER WERNER, DAVID N	
			ART UNIT 2621	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/799,829

**Applicant(s)**

SIEVERS, JOHN

**Examiner**

David N. Werner

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office action for US Patent Application 10/799,829 is responsive to communications filed 06 August 2008, in reply to the Non-Final Rejection of 07 March 2008. Currently, claims 1-5 and 7-20 are pending. Claim 6 is canceled.
2. In the previous Office action, claim 6 was rejected under 35 U.S.C. 101 as non-statutory. Claims 1-5 were rejected under 35 U.S.C. 102(b) as anticipated by US 5,260,783 A (Dixit). Claims 11-13 and 16-19 were rejected under 35 U.S.C. 103(a) as obvious over US 6,333,948 B1 (Kurobe et al.) in view of Dixit. Claims 14, 15, and 20 were rejected under 35 U.S.C. 103 as obvious over Kurobe et al. in view of Dixit and in view of ITU-T H.264.

### ***Response to Arguments***

3. Applicant's arguments, see pages 9-10, filed 06 August 2008, with respect to the rejection(s) of claim(s) 1 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US Patent Application Publication 2003/0227972 A1 (Fukuda). This reference, particularly figure 5, illustrates that it was known in the art at the time the present invention was made to generate a list of macroblock numbers specifying to which refresh group each macroblock belongs.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a flowchart or diagram of the claimed "method of encoding video data", a depiction of the claimed "slice groups", and a depiction of the claimed "map" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 and 11-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. *Ex Parte Langemyr*, BPAI 2008-1495 (28 May 2008). The present claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,260,783 A (Dixit) in view of US Patent Application Publication 2003/0227972 A1 (Fukuda). Dixit teaches a digital video encoder. Regarding claim 1, as part of a

coding process, Dixit produces composite intra/inter-frame mode coded difference frames comprising both inter-frame coded pixel blocks and intra-frame code pixel blocks (column 7: line 67–column 8: line 3). The division of a frame into  $P \times P$  pixel blocks corresponds with the claimed step of "dividing each frame of a video signal into a plurality of macroblocks". A portion 102 of the pixel blocks, in this example a vertical strip of macroblocks, is chosen to be coded in an intra-frame mode independently of the remainder of the frame (column 8: lines 1-25). This corresponds to the claimed step of assigning Intra-refreshed macroblocks "to a first slice group". The remainder of the difference frame comprises inter-frame coded pixel blocks 104 (column 8: lines 14-15, 22-25). Coding these blocks corresponds with the claimed step of "assigning, for each frame, a remainder of the plurality of macroblocks to one or more other slice groups". In Dixit, coded frames are divided into Type I cells and Type II cells for transmission, with Type I cells carrying advanced overhead information (column 11: lines 1-44). Included in a Type I cell is a "vertical strip-location subfield" 418 (column 11: lines 47-50), which identifies the current location of the vertical strip position of intra blocks in a composite intra/inter-frame coded video frame (column 11: lines 64-67). Notice that the intra-coded area is not limited to a vertical strip as in this example, but may take other geometries (column 8: lines 8-14), including "multiple strips" or even "randomly selected blocks". Then, the coding of the location of an intra-area is not necessarily "a vertical strip" or even "a group of contiguous macroblocks extending across the entire picture", as argued by Applicant. In any event, coding this field corresponds with the claimed step of "generating a map" locating the macroblocks of the first slice group. In the

vertical strip example shown, after one frame is finished coding, the vertical strip 102 is advanced to the right by one column of blocks, so a new group of blocks is intra-coded. If the vertical strip reaches the right side of the frame, the strip is then reset to the left side of the frame (column 8: lines 26-53), to ensure that the whole frame is gradually completely refreshed. Updating the strip position corresponds with the claimed "indexing the map" for future Intra macroblocks for the current frame.

The present invention differs from Dixit in that in the present invention, a map is specified as a list of macroblock numbers that specifies to which slice group each macroblock belongs, whereas in Dixit, the vertical strip location subfield is a single field that identifies the location of an intra area as a whole in a frame (column 11: lines 63-66).

Fukuda teaches a video encoder. Regarding claim 1, in Fukuda, blocks are updated according to a map created by qualitative refresh map creation unit 100 based on a subjective importance level (paragraph 0054). Figure 5 shows a refresh period map. Blocks that are deemed to have a high importance are assigned a fast refresh period of 15 frames, and blocks that are deemed to have a low importance are assigned a slow refresh period of 120 frames. Note that each block is given a number, and matched against an importance level (paragraph 0056). Then, an importance level, specifying the refresh period for each numbered block contained therein, corresponds with the claimed "slice group", and the refresh period table 200, updated for each frame (paragraph 0055), corresponds with the claimed "macroblock map".

Dixit discloses the claimed invention except for creating a list of macroblock numbers for a block refreshment schedule. Fukuda et al. teaches that it was known to create a table of block numbers, each of which is assigned a refresh period grouping based on subjective importance. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dixit to create a schedule of macroblocks according to importance, as taught by Fukuda, since Fukuda states in paragraph 0067 that such a modification would allow for different sets of blocks to be refreshed at different rates, improving the perceived quality of the moving image.

Regarding claim 2, in Dixit, encoded frames are packetized in an ATM structure and transferred over a network (column 10: lines 55-68).

Regarding claims 3-5, figure 1 of Dixit shows several devices connected to a network 12, the devices containing decompressor 20 that includes video decoder 21 and network interface 22, and displaying the decoded video on display device 26 (column 4: lines 15-41).

8. Claims 11-13 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,333,948 B1 (Kurobe et al.) in view of Dixit and Fukuda. Kurobe et al. teaches a video coding system that performs intra refreshing. Regarding claim 11, in one embodiment of Kurobe et al., as shown in figure 13, a Group of Blocks (GOB) according to the H.261 or H.263 standards may be refreshed in two modes: a whole-group refresh, in which every macroblock in the GOB are simultaneously refreshed (column 29: lines 11-17), and a dispersed refresh mode, in which only some



of the macroblocks within a GOB are refreshed for a given picture (column 29: lines 17-31). As shown in figure 1, a single frame may have GOBs refreshed both in a whole-group refresh and a dispersed refresh. Then, determining a GOB refreshed in a whole-group refresh in a frame in which other GOBs are refreshed in a dispersed refresh corresponds with the claimed step of "assigning a small subset of the plurality of macroblocks to be Intra refreshed in the first picture to a first slice group", and determining the other GOBs that have dispersed intra refresh, corresponds with the claimed step of "assigning a remainder of the plurality of macroblocks to one or more additional slice groups". Figure 2 shows a flowchart operation of refresh coding the pictures of Kurobe et al. This operation depends on several parameters, including a FMBLK flag determining whether a current GOP is refreshed with whole-group refresh or dispersed refresh (column 29: line 66—column 30: line 4). In addition, one GOB signaled by MBLKG(I), indicates that this group of blocks should be refreshed, regardless of the current status of the GOP as whole-group refreshed or dispersedly refreshed (column 30: lines 33-57). Determining which group of blocks in a current picture is to be whole-group refreshed corresponds with the claimed step of "generating a macroblock map of the first picture". Furthermore, as figure 2 shows, the mode selection part 2705 in a coder determines the refresh coding mode of a picture, the refreshing part 2706 or 2707 intra-refreshes the GOB as appropriate, and coding part 2708 codes the frame (column 30: lines 10-64). This corresponds with the claimed step of "encoding the macroblocks of the first picture". As shown in figure 13, the encoded video data is transmitted to a remote decoding apparatus 2709. This corresponds with

the claimed step of "transmitting the encoded macroblocks of the first picture". Finally, in Kurobe et al., when the next picture is encoded, the value RCOUNT, denoting a count value of the refresh cycle, is incremented (column 29: line 63; column 30: lines 61-64), and as shown in figure 1, causes a new GOB to become the MBLKG(I) GOB, and new macroblocks in disperse refresh GOBs to be refreshed. This corresponds with the steps for the subsequent picture. However, in Kurobe et al., mapping parameters such as RCOUNT and MBLKG(I) that indicate the location of a whole-group refresh GOB are not transmitted with the encoded macroblocks in a picture.

In Dixit, as mentioned previously, the location of an intra-frame subfield is transferred in the header information of a hybrid intra/inter-coded frame (column 11: lines 46-66). This corresponds with the claimed transmission of the macroblock maps.

Kurobe et al. discloses a majority of the claimed invention except for transmitting the location of refreshed intra blocks in an inter frame. Dixit teaches that it was known to transmit a refresh block location subfield in the overhead of a video frame. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to transmit the location of the whole-group refresh GOB of Kurobe et al., as taught by Dixit, since Dixit states in column 7: lines 48-50 that such a modification would reduce error within the group by limiting an error in the refresh to the individual group itself, and not propagating it to the rest of the frame.

The present invention differs from Dixit in that in the present invention, a map is specified as a list of macroblock numbers that specifies to which slice group each macroblock belongs, whereas in Dixit, the vertical strip location subfield is a single field

that identifies the location of an intra area as a whole in a frame (column 11: lines 63-66).

Fukuda teaches a video encoder. Regarding claim 11, in Fukuda, blocks are updated according to a map created by qualitative refresh map creation unit 100 based on a subjective importance level (paragraph 0054). Figure 5 shows a refresh period map. Blocks that are deemed to have a high importance are assigned a fast refresh period of 15 frames, and blocks that are deemed to have a low importance are assigned a slow refresh period of 120 frames. Note that each block is given a number, and matched against an importance level (paragraph 0056). Then, an importance level, specifying the refresh period for each numbered block contained therein, corresponds with the claimed "slice group", and the refresh period table 200, updated for each frame (paragraph 0055), corresponds with the claimed "macroblock map".

Kurobe, in combination with Dixit, discloses the claimed invention except for creating a list of macroblock numbers for a block refreshment schedule. Fukuda et al. teaches that it was known to create a table of block numbers, each of which is assigned a refresh period grouping based on subjective importance. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dixit to create a schedule of macroblocks according to importance, as taught by Fukuda, since Fukuda states in paragraph 0067 that such a modification would allow for different sets of blocks to be refreshed at different rates, improving the perceived quality of the moving image.

Regarding claim 12, in Kurobe et al. and Dixit et al., the progression of intra-refreshed portions of an image occurs in a regular, cyclic, progressive cycle.

Regarding claim 13, in Dixit et al., as shown in figure 9, in a Type I cell, the strip location field 418 is transmitted before the data field 422.

Regarding claims 16-19, figure 13 of Kurobe et al. shows video decoding apparatus 2709 having decoding part 2710, which decodes the video encoded and transmitted from video coding apparatus 2701 and outputs decoded output picture Imo (column 27: lines 49-56).

9. Claims 14, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurobe et al. in view of Dixit and Fukuda as applied to claims 11, 13, and 16 above, and further in view of ITU-T H.264. Claims 14, 15, and 20 specify that the present invention is directed to an H.264 coder and decoder. However, Kurobe et al. is designed for H.261 or H.263 video (column 5: lines 55-59), Dixit is designed for HDTV video (column 9: lines 3-24), which conventionally operates on MPEG-2, and Fukuda is designed for videoconferencing (paragraph 0002), which conventionally operates on H.263. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adapt Kurobe et al., Dixit, or Fukuda to operate on H.264 video, since H.264 states in page i that such a modification would increase the compression ratio of encoded video.

10. Claims 7-10 are rejected under 35 U.S.C. 103(a) as obvious over Dixit in view of Fukuda and in view of Kurobe et al. Independent claims 7 and 9 recited apparatuses for encoding and decoding a video, wherein the apparatuses each contain a programmed CPU. Dixit does not specify if an encoding and decoding apparatuses described therein contain a CPU, and Fukuda appears to only describe a specialized hardware circuit implementation (paragraphs 0009, 0051).

11. Regarding claim 7, in Kurobe et al., a video coding apparatus is explicitly stated to be implemented on a CPU (column 28: lines 4-26). Regarding claim 8, Dixit shows video input from a plurality of video sources 14 (column 4: lines 18-19). Regarding claims 9 and 10, figure 34C of Kurobe et al. demonstrates that transmitting video to a PC over the Internet was known at the time of the invention (column 1: lines 16-24).

Dixit, in combination with Fukuda, discloses the claimed invention except for encoding and decoding video with a forced refresh cycle by a CPU. Kurobe et al. teaches that it was known to perform video processing with a central processing unit. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the video encoder and decoder of Dixit (as modified by Fukuda) as software, as taught by Kurobe et al., in order to perform the coding of Dixit on a general purpose computer such as a PC.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,940,903 B2 (Zhao et al.) and US Patent 7,110,450

B1 (Kimoto) each disclose a video encoder that adaptively changes an intra refresh map based on a current bit budget.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Werner whose telephone number is (571)272-9662. The examiner can normally be reached on Monday-Friday from 10:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. N. W./  
Examiner, Art Unit 2621

/Mehrdad Dastouri/  
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